

card including storage media.

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### REMARKS

The Office Action dated October 18, 2000, has been carefully considered. In response thereto, the present application has been amended in a manner which, it is believed, places it into consideration for allowance. Accordingly, reconsideration and withdrawal of the outstanding grounds of objection and rejection are respectfully solicited in view of the foregoing amendments and the following remarks.

The reissue declaration has been objected to for failing to mention the present claims. Attached to this Amendment is an unsigned reissue declaration in which the statement of errors specifically refers to the present claims and the manner in which they overcome the error. The Applicants respectfully request that the unsigned declaration be treated in the manner provided in MPEP §1444 relating to an unsigned reissue declaration as part of a reply which is otherwise properly signed and responsive:

If the unsigned reissue oath/declaration is submitted as part of a reply which is otherwise properly signed and responsive to the outstanding Office action, the reply should be accepted by the examiner as proper and responsive, and the oath/declaration considered fully in the next Office action. The reply should not be treated as an unsigned or improperly signed amendment (see MPEP §714.01(a)), nor do the provisions of *Ex Parte Quayle* apply in this situation.

Further, the Applicants respectfully submit that this Amendment overcomes the objection to claims 44-48.

Finally, the Applicants respectfully submit that claims 43-56 as amended define subject matter which would not have been obvious over *Brodard* '781. That patent teaches a stimulation unit 2 having an interchangeable information medium 4. As taught in the middle of column 14, the medium can be used to allow a therapist to observe the course of treatment. However, the information medium of *Brodard* also stores software for operating the muscle stimulator, with the consequence that if the medium is not

inserted, the muscle stimulator cannot work.

By contrast, in the present invention, the removable data storage does not contain information used to control the Class II device. For example, in the preferred embodiment disclosed in the specification, the data storage card operates in write-only mode when inserted into the muscle stimulator 100 and does not store any treatment data which can be used for any control functions of the muscle stimulator 100, so that the stimulator 100 functions regardless of whether the card is present. Thus, because the removable data storage does not contain information used to control the Class II device, the present claimed invention offers an advantage over the applied prior art in terms of greater versatility of operation.

As all grounds of objection and rejection have been addressed and overcome, entry of this Amendment and withdrawal of the outstanding grounds of objection and rejection are respectfully solicited.

In the event there are any questions relating to this Amendment or to the application in general, it would be appreciated if the Examiner would telephone the undersigned attorney concerning such questions so that prosecution of this application may be expedited.

Please charge any shortage of fees or credit any overpayment thereof to BLANK ROME COMISKY & McCAULEY LLP, Deposit Account No. 23-2185 (000309-00011). In the event that a separate Petition for an Extension of Time does not accompany this Amendment, the Applicants herewith

petition under 37 C.F.R. §1.136(a) for an extension of time for as many months as are required to render this submission timely. Any fee due is authorized above.

Respectfully submitted,

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